

## 48A C.J.S. Judges § 254

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### IX. Disqualification to Act

#### C. Grounds for Disqualification

##### 1. In General

##### b. Bias or Prejudice

###### (2) Nature or Character

###### (b) Origin of Bias or Prejudice and Against Whom Directed

## § 254. Bias based on interest

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges 49\(1\)](#)

**Where bias or prejudice is a ground of disqualification, any interest, the probable and natural tendency of which is to create a bias in the mind of the judge for or against a party to the cause, is sufficient to disqualify the judge.**

A judge who has a personal interest in a case cannot act fairly in that case.<sup>1</sup> Where bias or prejudice is a ground of disqualification, any interest, the probable and natural tendency of which is to create a bias in the mind of the judge for or against a party to the cause, is sufficient to disqualify the judge.<sup>2</sup> The interest which disqualifies a judge on the ground of bias or prejudice need not be a pecuniary one.<sup>3</sup> On the other hand, where a case involves remote, contingent, indirect, or speculative interests, the disqualification of a judge is not required.<sup>4</sup> Where statutes specifying the grounds of disqualification are considered exhaustive, prejudice or bias not based on interest or other statutory ground is not a cause for disqualification.<sup>5</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

Standard for determining whether Fourteenth Amendment's due process clause required recusal of a state trial judge who was target of a federal bribery probe in which prosecutor was playing a role was whether considering all circumstances alleged, risk of bias was too high to be constitutionally tolerable; evidence of actual bias in defendant's case was not required. [U.S.C.A. Const.Amend. 14. Rippo v. Baker, 137 S. Ct. 905 \(2017\)](#).

**[END OF SUPPLEMENT]**

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Footnotes

1 Ill.—[Business and Professional People for Public Interest v. Barnich, 244 Ill. App. 3d 291, 185 Ill. Dec. 207, 614 N.E.2d 341 \(1st Dist. 1993\)](#).

2 U.S.—[Withrow v. Larkin, 421 U.S. 35, 95 S. Ct. 1456, 43 L. Ed. 2d 712 \(1975\)](#).

Wash.—[Chicago, M., St. P. & P. R. Co. v. Washington State Human Rights Commission, 87 Wash. 2d 802, 557 P.2d 307 \(1976\)](#).

3 U.S.—[Caperton v. A.T. Massey Coal Co., Inc., 556 U.S. 868, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 \(2009\)](#).

Interest as ground of disqualification, see §§ 275 to 288.

4 Utah—[Kunej v. Labor Com'n, 2013 UT App 172, 306 P.3d 855, 295 Ed. Law Rep. 830 \(Utah Ct. App. 2013\)](#).

5 Ga.—[Elder v. Camp, 193 Ga. 320, 18 S.E.2d 622 \(1942\)](#).

N.Y.—[Katz v. Denzer, 70 A.D.2d 548, 416 N.Y.S.2d 607 \(1st Dep't 1979\)](#).

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